

INTERNATIONAL ENVIRONMENTAL BRIEF

Rio A Humbling Experience

Editor's Note: The National Environmental Law Association was represented at the United Nations Conference on Environment and Development held in Rio de Janeiro in June of this year by Julie Davis, Executive Member of the Victorian Division and John Scanlon, President of the South Australian Division. John Scanlon gives us his impressions of the Conference.

The Host City, Rio de Janeiro, Brazil

Rio de Janeiro was a great place to hold the Conference because you find in Rio, like so many other South American cities, graphic examples of the environmental and social problems facing the World that were to be tackled by the Conference delegates.

Rio is home to an estimated 7 million people. Many of the Carioca's, the nickname of Rio residents, live in high rise apartments with some 250,000 living in the 4 square kilometres of land known as Copacabana. Over 62,000 people per kilometre appears to be taking urban consolidation to its extreme!

Untreated effluent flows from the City into the ocean at such famous beaches as Copacabana and as further development occurs west of the City arguments rage as to whether such new developments should be required to treat effluent or merely be permitted to pump it untreated into the ocean.

Many of the spectacular hills around Rio are covered with slums or shanty towns known as favelas - the name of a purple flower that grew on the slopes where the slums sprung up. As one travelled from the City through the Dois Irmaos Tunnel on the way to Rio Centro, one passed directly beneath and between the Rocinha favela, a slum that is home to 250,000 of Rio's poorest. Travelling from the airport to the City one passed through another favela cut in two by the newly constructed highway to transport delegates from the airport to the City as quickly as possible.

The stark contrast between rich and poor that is so evident in Rio made it a fitting place to hold the Conference where one of the primary issues was the ever widening gap between the rich and the poor. One didn't need to go too far to see the glaring inequities that exist that are in urgent need of redress.

Rio is famous for many things including the Corcovado (hunchback), the jagged peak rising 710 metres behind the City and home to the magnificent statue of Christ, the Sugar Loaf, the annual Carnival, the beaches, and unfortunately the violence. I would not wish to discourage anyone from travelling to Rio - in fact I would encourage a visit - but it is a violent city. While travelling there in 1990 I was advised that there had been a record number of murders in Rio one weekend, 57, most of which occurred in the favelas, with the suggestion that many were committed by the police. Theft is a common problem and streets are congested. Having spent three weeks in Rio in February 1990 I wondered how the City and the country were going to make the Conference work. I soon learnt.

Under the watchful eye of 35,000 armed and camouflage-clad troops Rio was safer for the tourist than it ever had been. Military helicopters wound their way between high rise buildings and skimmed low over Rio's beaches. War ships sailed off the coast and submarines sometimes made a brief appearance at the surface. Armoured personnel carriers, jeeps and tanks were in plentiful supply. A rumoured uprising by the residents of the Rocinha favela was greeted by tanks being positioned across the road from it. Each tank had its turret pointed directly at the favela, with a plentiful supply of soldiers being scattered through the adjacent hills.

It was ironic that at a conference which adopted principles such as:-

"Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Warfare is inherently destructive to sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and co-operate in its further development, as necessary.

Peace, development and environmental protection are inter-dependent and indivisible."

that it was necessary to have such massive security in order to protect us from one another. Rio was under siege. Greg Goldin of the LA Weekly quoted on Carioca as stating that:-

"They are here to protect the slum dwellers of the favelas from United Nations officials."

The Venues, Rio Centro and Flamengo Park

The Conference was made up of the UNCED Conference held at Rio Centro and the Global Forum held at Flamengo Park.

Rio Centro was a 1½ hour, 30 kilometre drive from downtown. Rio Centro itself is a massive existing conference come exhibition facility that was large enough to house offices for delegates from 178 nations together with all conference and press facilities.

The Global Forum held at Flamengo Park was near a metropolitan beach close to downtown that enjoyed magnificent views over the Sugar Loaf and the Corcovado. The beautiful park was closed off by fences and security and contained temporary booths and meeting structures with other events also being held in venues downtown.

What happened at Rio Centro?

178 countries gathered at Rio Centro including 120 Heads of State. The massive structure of Rio Centro contained transportable buildings being the offices used by the countries' delegations, with a non government organisation building also making its way in. Plenary meetings where Heads of State and others addressed the Conference delegates were held, closed conference meetings where delegates thrashed out the final terms of the documents were held and the United Nations and the Brazilian Government took the opportunity to promote themselves through various displays.

Many people addressed the Plenary Meetings including Ms Ros Kelly, Mr John Major, Dr Helmut Kohl, Mrs Gro Harlem Brundtland and Mr Francois Mitterrand. However only one problem was ever encountered with the electronics during the Plenary Meetings and that was during the speech made by Wagaki Mwangi who represented the Canadian Youth Organisation. Wagaki said, before she was cut off:

"UNCED has ensured increased domination by those who already have power. The Conference has failed to address such key issues as environmental damage caused by military establishments and over consumption of natural resources in Northern countries. Without dealing with these root causes of environmental damage the Conference has simply reinforced such power centres as the US, the World Bank, and transnational corporations"

The Press Centre churned out more non recycled paper than one could imagine and on the final days of the Conference one found Musa da Ecologia-92 (Miss Ecology 1992) parading in front of the UN revolving model of the World - it could only happen in Brazil!

It was Rio Centro where one found the large banner available for signature containing the Earth Pledge which read:-

"Recognising that people's actions towards nature and each other are the source of growing damage to the environment and resources needed to meet human needs and to ensure survival and development, I PLEDGE

to act to the best of my ability to make the Earth a secure and hospitable home for present and future generations."

which was signed, not only by NELA's representatives, but also by President George Bush who promptly proceeded to do all he could to dishonour his pledge.

Rio Centro is where the Non Government Organizations ("NGO's") met to give their ratings on the performance of Governments and to hand out awards for the worst performers. The winner was presented with the "Ostrich Reward", a banner depicting an ostrich with its head stuck in the garbage. The gold medal was won by the United States of America, silver by Saudi Arabia and the bronze by the United Kingdom.

What happened at the Global Forum?

Over 1,500 NGO's were presented at the Global Forum which included all manner of environmental, women's, indigenous people's, religious, homosexual, vegetarian and other groups. Flamengo Park was filled with 600 stalls staffed by representatives of various NGO's and around 50 meeting tents. In addition to Flamengo Park venues were scattered around downtown where other meetings were held.

NGO's formed a group known as the NGO International Forum that set about drafting alternative treaties and that organised daily briefings about what was happening "way out there" at Rio Centro.

Greg Goldin described the Global Forum in the following way:-

"As it was, you needed a map as thick as a Thomas guide, and as fully indexed to begin to sift through the mess that was the Global Forum. Walking through the park, you were handed, in less time than it took to scribble a sentence, a ream of position papers, pamphlets, articles and booklets on everything from alcoholism to third world debt. If, in defiance of the laws of physics, you could be in ten - no, twenty places at once, you could hear Lester Brown of the World Watch Institute; Gerry Brown, a candidate for the President of the United States; the Dalai Lama, spiritual leader of the free world ... inside the Global Forum, you could buy a solar broiler, a cardboard contraption lined with reflective foil, or a blow gun decorated with blue parrot feathers ... there were gays for the environment and vegetarians for the environment, the first explaining the "clear connection between safe sex and preserving the environment", the other reminding us that "animal agriculture is a major cause of deforestation."

It was also here that you found the Greenpeace Rainbow Warrior and where the outdoor rock concert to celebrate the end of the Conference was held. Rumours of the Beach Boys playing at the concert proved to be false!

All told Rio was temporary home to the delegations from 178 countries, 120 Heads of State, 1,500 NGO's, 30,000 delegates and 8,000 press. Having arrived a day late due to mechanical problems with our Aerolineas Argentinas plane and quickly rushing to the Global Forum, I found that at the end of my first half day at the Conference I had a severe bout of depression. I wondered how I would ever work out what was going on in Rio and how embarrassing it would be to go back to Australia and when asked to explain what happened in Rio to say, "I have no idea, it was all too big". However, with a good night's sleep, depression and jet lag were replaced with excitement and enthusiasm. One could feel the buzz that was around Rio, in particular at the Global Forum, and the amount of energy and enthusiasm going in to trying to achieve something.

Coming from my own familiar "backyard" of Adelaide and stepping into the massive international forum that was Rio could be described by me as nothing less than a humbling experience.

Was it worth it?

This was the title to a seminar put on by NELA in conjunction with the EIA where four speakers, namely Ms Susan Lenahan, SA Minister for Environment & Planning and member of the Australian Delegation representing ANZECC, Ms Mary Lou Morris, National President EIA, Gabriell Kelly, maker of the film "Green Bucks - The Challenge of Sustainable Development" and the writer all expressed their own views on Rio. I have read many articles, including many depressing ones on the outcome of Rio. Those articles tend to concentrate on the specific detail of the documents that came out of Rio rather than on the process that was Rio.

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It is important to look at the documents and I agree that in many respects the documents were very disappointing, in particular given what could have been achieved. However documents incorporating many important principles were prepared.

When considering what came out of Rio I look more at the process that was Rio and the process that led up to it than the specific terms of documents. In my view a significant amount has been achieved. Rio was about a changing culture. It was about a fundamental change in the manner in which we view the environment and development and the context in which we assess it.

The process saw the gathering of all of the countries and of all of the people that I have referred to earlier in this article. The process recognised the importance of involving all sectors of the community in the process including NGO's, women, youth, indigenous people, farmers, local authorities, trade unions, business, industry and the scientific and technological communities.

The process also saw the G77 representing 128 developing countries unite into a powerful and effective voice and the exposure of the greed and hypocrisy of the government of the United States of America. I can't help but take this opportunity to quote from the Earth Summit Times, Saturday 13th June 1992 where Alden Meyer, a climate change expert with the Union of Concerned Scientists, after hearing President George Bush's speech was quoted as saying:

"The best you can say about the speech is that the US delegation spent a week and a half lowering expectations - and the President met them."

Out of the documents that were finalised in Rio we saw:

- treaties that incorporate into International law the notion that nations must consider the global environmental consequences of internal decisions;
- the promotion of the precautionary principle when assessing development where there are threats of serious or irreversible damage;
- the promotion of the polluter pays principle;
- the promotion of an environmental impact assessment of proposed activities that are likely to have a significant adverse impact on the environment;
- the incorporation of environmental considerations into economic decision making;
- development and environment being considered together;
- the need to consider the impact of current activities on future generations;
- the need to reduce unsustainable levels of consumption;
- the urgent need to eradicate poverty;
- the need to decrease the disparities in standards of living;
- the intrinsic value of biological diversity;
- the need for special provision to be made to meet the needs of developing countries;

and the list could go on.

What Rio meant to me

One of the most important parts of the Conference for me was the opportunity to develop and strengthen friendships with people from all over the World and to develop and strengthen networks amongst NGO's, in particular in the Latin American region.

NGO's will be strengthened by the links that have been forged in Rio. The access to information in Rio and the exchange of information that will inevitably follow will result in the development of greater local knowledge and expertise. That will make a difference.

I believe that NGO's representing local people will continue to lead meaningful reform in their own countries. Effective change will only come from within and the bottom up process will succeed where the top down process has not.

NELA is very well placed to give assistance and support to NGO's in less developed parts of the World.

I was fortunate to be able to travel extensively through South America in 1990 and to travel at the end of the Conference. In particular I met again with the members of the Peruvian Environmental Law Society in Lima. Peru continues to suffer more than ever from the effects of poverty, corruption and terrorism. Despite all of the obstacles placed in front of them the Peruvian Environmental Law Society, like so many other NGO's in the developing World, continues on, undeterred in its task, to work to protect the environment. Circumstances way beyond their control could, but will not, defeat them. Back here in Australia we have no excuse. If we fail in our attempts to develop effective legislation, institutions and education there will be nothing or no-one to blame apart from our own laziness.

The legal position, a very brief overview

Australia was a signatory to two treaties, the Convention on Climate Change and the Convention on Biological Diversity. They are both legally binding documents.

The other three documents adopted by resolution of the delegates to the Conference, namely the Rio Declaration, Agenda 21 and the Statement of Principles regarding all types of forest are not legally binding. They may however incorporate matters already included within other treaties or forming a part of customary international law. What's more some aspects of the documents may in time develop into part of the customary international law. While the documents are not legally binding documents the delegates have indicated a willingness to implement them.

The treaties were signed for and on behalf of the Australian Government by the Head of its delegation, Ms Ros Kelly. The signing of those treaties now needs ratification which will come from the Commonwealth Government. The decision is an Executive one.

Prior to ratification the Intergovernmental Agreement on the Environment requires the Commonwealth Government to consult with the States "in an effort to secure agreement on the manner in which the obligations incurred should be implemented in Australia" consistent with the principles of the Agreement.

Once all of that is done and the treaties are ratified they do not automatically become a part of Australian domestic law. That will only be achieved through State or Commonwealth legislation.

If not ratified then Australia is not a party to the treaties and therefore is not bound. If ratified then the Commonwealth Government is a party to the treaties and is under an obligation at international law to implement their terms.

Some Final Comments

This is my own account of what Rio was for me. It has not been intended to be an academic article - no doubt there will be many to follow. We now face the hard work of implementing what came out of Rio at a local level. NELA can and should play a fundamental role.

I have decided to finish this article with a quote from the extremely well received address by Cuban President Fidel Castro:

"When the assumed threats of communism no longer exist and there are no pretexts for cold wars, armsrace and military expenditures, what is it that prevents the immediate use of those resources to foster development in the Third World and to avert the threat of the planet's ecologic destruction?"

"Let this be the end of selfishness and hegemonism; the end of callousness, irresponsibility and deceit. Tomorrow, it will be too late to do what should have been done a long time ago. Thanks."

John Scanlon

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